



Opening Statement of Mr. Todd G. Sears, Founder & CEO, Out Leadership

Before the Committee on Financial Services Subcommittee on Diversity and Inclusion

United States House of Representatives

Virtual Hearing entitled "There's No Pride in Prejudice: Eliminating Barriers to Full Economic Inclusion for the LGBTQ Community."

November 9, 2021

Chairwoman Beatty, Ranking Member Wagner, Chairwoman Waters, Ranking Member McHenry, and distinguished members of the Subcommittee, thank you for holding this hearing today.

I sit here before you today, as a proud, openly gay American, a former investment and private banker, former Chief Diversity Officer, and now the Founding CEO of Out Leadership, the first company in the history of the United States whose sole product is equality. Since our first CEO-hosted summit in 2011, I have approached the issue of LGBTQ-inclusive diversity as a business opportunity, something that should be embedded in the DNA of how a company does business and led by the CEO with support from Human Resources—not the reverse. Research has told us time and again for decades that diverse groups and teams (at every level of a company or organization) reduce groupthink, and spur innovation. Consequently, that definition of diversity must be inclusive of LGBTQ+ people.

There are both direct and indirect correlations between LGBTQ+-inclusive diversity policies and a company's bottom line, and even its stock price. Since 2008, every stock market study on LGBTQ+-inclusive policies has shown a positive effect on stock performance¹. Multiple studies have shown that US companies with LGBTQ-inclusive policies have higher income per employee,

¹ The Economic Case for LGBT Equality, M.V. Lee Badgett, 2020

more patents, more trademarks, and more copyrights than less inclusive companies². A 2020 Credit Suisse survey found that companies with LGBTQ+ “out” executives and LGBTQ-inclusive policies outperformed their less inclusive peers in the MSCI World Index by 9.1% over the last ten years--or 378 basis points per year³. The United States Chamber of Commerce, in its 2019 publication, not only found a 6.5% stock outperformance of LGBTQ+ friendly companies versus their peers, but also a direct positive correlation on recruitment, engagement, and retention for LGBTQ+ friendly companies⁴.

Unfortunately, due to the absence of federal protections for LGBTQ+ people, the positive benefits of LGBTQ+ inclusion are not felt universally in the United States, with the burden falling to individual companies to navigate a patchwork of state laws. Recent LGBTQ+ workplace research from my organization Out Leadership revealed that almost one-third of LGBTQ+ people will take a pay cut to move to a state with more favorable treatment of LGBTQ+ workers⁵.

We have articulated this as an opportunity, what we call the Return on Equality™. Indeed, a more inclusive environment will help unleash the potential of additional jobs, innovation, tax revenue, and accelerate the growth of diverse and inclusive workplaces, boosting the American economy.

Over 750 CEOs and hundreds of multinational organizations around the world have supported this principle of Out Leadership, lending their platform and the economic power of their companies to the fight for full equality for LGBTQ+ people.

Out Leadership members are predominantly American companies, who employ more than 7 million Americans in every single state in the country, in sectors ranging from finance and manufacturing to consumer staples, real estate, and technology.

² “Mohammed Hossain et al., “Do LGBT Workplace Diversity Policies Create Value for Firms?,” Journal of Business Ethics, 2019

³ <https://www.marketwatch.com/story/lgbt-friendly-companies-outperform-in-the-stock-market-credit-suisse-says-11606822183>

⁴ <https://www.uschamberfoundation.org/press-release/us-chamber-foundation-research-shows-better-recruitment-retention-and-employee>

⁵ <https://www.outleadership.com/allyup>

Companies support our work because the laws of our country lag behind what employees and customers have been telling them for decades - that LGBTQ+ people deserve to be treated with dignity and respect and afforded the same rights as their straight peers.

Distinguished Members, I knew I was gay when I was a four-year-old kid in Salisbury, NC, and despite having open-minded and supportive parents, it took me another 14 years to finally come out to myself. Because of the explicit and implicit discrimination that exists in every aspect of our society, lesbian, gay, bisexual, and transgender Americans have to seek psychological safety in every situation in which we find themselves—is it safe to be ourselves in an office, in a bar, or in a boardroom? This is the constant risk/reward assessment that every LGBTQ+ person undergoes daily across America. This pits our jobs and careers, and in some cases our lives against the simple act of being who we are.

But as challenging as this universal experience of discovering one's gay identity is, those of us who are lucky enough to survive both the closet and the coming out process have the “superpower” of knowing who we really are—something not everyone experiences. The life-long challenge of covering and seeking safe spaces also results in LGBTQ+ people showing incredibly high levels of empathy, making us great employees, creative thinkers, and strong leaders when given the opportunity.

But as each of you here today knows, despite progress, and decades of work, equal opportunity for every American still does not currently exist.

The August 2021 jobs report showed that unemployment of Black workers rose last month compared with the opposite for white, Asian, and Latino workers. According to an EEO1 analysis by USA Today this Fall, only 1 in 443 Black or Hispanic employees have an executive-level job. Women are still massively underrepresented at senior levels of corporations. When race is added to the equation, the representation of women of color in United States companies drops off 75% between entry-level and the C-suite. In fact, women of color account for just 4% of C-suite leaders according to McKinsey⁶.

⁶ <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/women-in-the-workplace>

LGBTQ+ workers, unfortunately, face even more challenging situations, primarily due to the significant legal opportunities for discrimination that still exist across the United States. The Williams Institute of the UCLA School of Law - the only research institution of its kind globally studying socio-economic outcomes of LGBTQ+ people - found in its latest research that 45.5% of LGBTQ+ workers in the United States reported experiencing unfair treatment at work, including being fired, not hired, or harassed because of their sexual orientation or gender identity at some point in their lives.

Consider the following:

- 29 states still have no full nondiscrimination protections for LGBTQ+ Americans
- 47% of LGBTQ+ Americans have experienced discrimination, harassment, or physical or sexual assault in the workplace⁷
- Over half (57.0%) of LGBTQ+ employees who experienced discrimination or harassment at work reported that their employer or co-workers did or said something to indicate that the unfair treatment that they experienced was motivated by religious beliefs
- This discrimination and harassment are ongoing: nearly one-third of LGBTQ+ respondents reported that they experienced discrimination or harassment within the past five years. Overall, 8.9% of employed LGBTQ+ people reported that they were fired or not hired because of their sexual orientation or gender identity in the past year, and that number increases to 11.3% for LGBTQ+ employees of color

For transgender employees, the situation is even worse, with almost half (48.8%) of transgender employees reporting experiencing discrimination (being fired or not hired) based on their LGBTQ+ status compared to 27.8% of cisgender LGB employees. More specifically, twice as many transgender employees reported not being hired (43.9%) because of their LGBTQ+ status compared to LGB employees (21.5%). For Black transgender Americans, the numbers are troubling, with 20% unemployment--more than twice that of the general Black population⁸.

Religious liberty in America means absolute freedom to believe as one wishes. It has never meant—and must not mean—that our government favors religious believers over nonbelievers or

⁷ <https://www.outleadership.com/allyup>

⁸ The National Center for Transgender Equality

certain religious sects over others. We all are entitled to equal liberty and equal protection of the law. Indeed, positioning LGBTQ+ inclusion against religious inclusion creates a false choice, especially as more than half of LGBTQ+ Americans consider themselves religious⁹.

Chairwoman Beatty, Ranking Member Wagner, Chairwoman Waters, Ranking Member McHenry, and distinguished members of the Subcommittee, LGBTQ+ equality and inclusion is not a Republican or a Democrat issue. This is an economic issue that impacts all Americans. Gallup's latest poll puts the LGBTQ+ population at 5.6% of the US population¹⁰, with other smaller studies showing significantly higher percentages, especially in Generation Z.

There are economic consequences to discrimination and significant economic opportunity created by LGBTQ-inclusive diversity. Too often, conversations, forums like these, and the laws and regulations that come from them, remain limited to the silos of gender and race. Diversity is intersectional and must include LGBTQ+ people to be fully inclusive. Time and again, federal bills and countless state-level bills are introduced to promote diversity, inclusion, and disclosure that completely ignore and exclude the LGBTQ+ community. LGBTQ+ people are still not a federally protected category—something most Americans do not know. There are still no consistent state-level protections for gay and lesbian people, and even fewer protections for the most vulnerable of our populations, the transgender community. HIV+ Americans can still face criminal charges in 34 US states.

LGBTQ-inclusive diversity must be included in every conversation on economic development and opportunity if we are to achieve a United States economy of prosperity, equity, and dignity. The most vulnerable LGBTQ+ households also tend to have individuals and families who hold multiple intersectional identities, compounding the burden of discrimination based on sexual orientation, gender identity with gender, race, ethnic background, veterans, disability, military-connected families¹¹, older Americans, or formerly incarcerated people. It is important to note that racial justice is a core and inseparable part of the movement for LGBTQ+ equality.

⁹ <https://williamsinstitute.law.ucla.edu/press/lgbt-religiosity-press-release/>

¹⁰ <https://news.gallup.com/poll/329708/lgbt-identification-rises-latest-estimate.aspx>

¹¹ There are approximately 16000 families of lesbian, gay, bisexual, or transgender (LGBT) service members in the U.S. military <https://jmvfh.utpjournals.press/doi/abs/10.3138/jmvfh-2021-0019>

We know that LGBTQ+ leaders who are out at work are more successful, more likely to be promoted, more loyal to their companies—all of which are direct positive impacts on a company's bottom line. Conversely, 73% of LGBTQ+ employees who are in the closet say they're planning to leave their companies¹². We also know that supportive allies are the number one reason LGBTQ+ people come out at work and that LGBTQ+ allyship has a direct positive impact on other minorities.

Economic empowerment for LGBTQ+ people means seeing a pathway for success at their place of employment. Our research has shown that visible LGBTQ+ people serving in top leadership positions, especially on the board, give diverse talent across the spectrum the confidence to see a pathway to career success. Yet only 19 of the Fortune 500 corporations explicitly include LGBTQ+ people in the definition of board diversity, and the resulting count of out LGBTQ+ board members is 29—just 0.51% of the Fortune 500 5,670 board seats that exist¹³.

The COVID-19 pandemic has exacerbated the disparities that exist to full LGBTQ+ participation in the economy. According to new survey data from the US Census Bureau (coincidentally the first time in history that LGBTQ+ people have been counted in a national federally funded survey):

- LGBTQ+ adults living in the US were twice as likely to experience food insecurity during the pandemic than non-LGBTQ+ adults¹⁴
- Of the more than 64,000 people who responded to the bureau's latest Household Pulse Survey, just over 13% of LGBTQ+ adults reported living in a household that experienced food insecurity in the past seven days, compared to 7.2% of non-LGBTQ+ adults
- This Census data also showed that LGBTQ+ people of color have been hardest hit by having work hours cut or losing jobs entirely during the pandemic¹⁵

¹² The Power of Out, Center for Talent Innovation, Sylvia Ann Hewlett

¹³ <https://outleadership.com/insights/lgbtq-board-opportunity-report/>

¹⁴ <https://www.census.gov/data/experimental-data-products/household-pulse-survey.html>

¹⁵ <https://williamsinstitute.law.ucla.edu/publications/covid-surge-lgbt/>

Other recent studies have shown that:

- 15% of American same-sex couples have children - That number is 41% for Black same-sex couples - and yet LGBTQ+ Black Americans on average have lower salaries and face more discrimination¹⁶
- 38% of Black transgender respondents report living in poverty, compared to 24% of Black people in the U.S. population¹⁷
- 42% of Black transgender respondents have experienced homelessness at some point in their lives, compared to 30% in the United States overall, and 22% have experienced homelessness in the past year because of being transgender¹⁸
- The Human Rights Campaign's (HRC) 2020 report found that 17% of LGBTQ+ people had lost their jobs because of COVID-19, compared to 13% of the general population

In short, preliminary evidence suggests that LGBTQ+ households have post-pandemic economic outcomes that are two times worse than their heterosexual and cisgender peers. However, because LGBTQ+ people remain largely unstudied by Government surveys, we lack a complete picture of the situation.

This past year, Out Leadership has championed three bills: HR 1187 on inclusive Governance, HR 1443 on LGBTQ+ access to credit, and the Equality Act, which all passed the House of Representatives. Let me take this opportunity to acknowledge your leadership and thank you for your work on this committee.

We are also engaging US agencies such as The United States Department of the Treasury, and Securities Exchange Commission, to ensure LGBTQ+ people are included in the federal definition of diversity.

¹⁶ <https://blackcensus.org/wp-content/uploads/2019/06/When-The-Rainbow-Is-Not-Enough.pdf>

¹⁷ National Center for Transgender Equality

¹⁸ National Center for Transgender Equality

Out Leadership intends to continue to use its network of companies to promote an equitable and inclusive post-pandemic recovery. On behalf of our members and the business community, we advocate specifically for the following:

1. The passage of the Equality Act. Without it, LGBTQ+ people will continue to be subject to state-level discrimination and the constant chipping away of federal protections like Title IX and *Bostock v. Clayton County*, a landmark United States Supreme Court civil rights case in which the Court held that Title VII of the Civil Rights Act of 1964 protects employees against discrimination because they are gay or transgender
2. The amendment of corporate guidelines for board diversity to expand diversity definitions to be LGBTQ-inclusive for all regulated entities and businesses in the United States. Out Leadership's *Guidelines for LGBTQ-inclusive Board Diversity* outline what such policies could be, along with using the model of California's AB 979. In advance of the Equality Act, encourage the U.S. Securities and Exchange Commission to require expanded disclosure of board diversity demographics by publicly traded companies, including sexual orientation and gender identity of board members (SEC). It is urgent that the SEC and other agencies define diversity, which so far has been left at the discretion of companies
3. The inclusion of data collection on the LGBTQ+ community in all Federal government data collection including in the American Community Survey and the American Housing Survey
4. We request that your work as a committee ensures that freedom of religion does not include a religious right to discriminate
5. The promotion of economic security and financial stability of LGBTQ+ people by fostering inclusive labor practices and workplace policies. Ensure greater access to safe and stable housing for LGBTQ+ people including by improving access to mortgages

In summary, LGBTQ-inclusive diversity is demonstrably and simply good for business. Twenty-five years of research has shown us that companies with LGBTQ-inclusive policies outperform their peers on every measure of success, from engagement to turnover, from innovation to stock price.

In a market economy, a business only invests effort in activities that are in its economic best interest, and LGBTQ+ inclusive diversity clearly fits the bill. It's why 92% of the Fortune 500 companies protect their LGBTQ+ employees, and thousands of US companies have invested in equality, diversity, and inclusion. However, individual companies can only do so much-- structural challenges remain that can only be addressed by the federal government.. The patchwork of state laws across 29 states where LGBTQ+ Americans are not protected stands in the way of economic growth, innovation, and the American Way. We ask this committee to undertake this important work and we stand ready to continue to support this committee and our government in any way possible.

Thank you for the opportunity to appear before you today, and I look forward to your questions.